

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

42P17013

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Signature

Typed or printed

name Margaux Rodriguez

Application No.

10/611,377

Filed

June 30, 2003

First Named Inventor

Louis A. Lippincott

Art Unit

2183

Examiner

Cody, Dillon J.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

NOTE: No more than five (5) pages may be provided.

I am the:

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under of 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

Attorney or agent of record.

Registration Number 42,261☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

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Telephone Number

July 18, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required.

☐

*Total of _____ forms are submitted.



Attorney's Docket No.: 042390.P17013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

Louis A. Lippincott, et al.

Serial No.: 10/611,377

Filed: June 30, 2003

For: **CONTROLLING MEMORY ACCESS
DEVICES IN A DATA DRIVEN
ARCHITECTURE MESH ARRAY**

Examiner: Cody, Dillon J.

Art Group: 2183

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants are filing this request to demonstrate a clear legal and factual deficiency in the rejections made in a Final Office Action dated April 18, 2006.

The pending claims are 1-9 and 11-29, all of which stand rejected as being unpatentable over U.S. Patent No. 5,613,146 issued to Gove, et al. ("Gove"). Gove is said to anticipate claims 1-4, and render obvious the remaining claims. The issue central to this request for review is the Examiner's position that the claimed invention does not discern between a **data driven processor** and a **von-Neumann processor**. As conceded by the Examiner, Gove teaches a typical von-Neumann-type processor. According to the Final Office Action, Applicants' claimed *data driven processor* is merely

“a processor which is driven by data”, and accordingly does not distinguish between what is understood by those skilled in the art as a data driven processor and a von-Neumann processor. For that reason, the Final Office Action holds that Gove either anticipates or renders obvious Applicants’ claims. This rejection is flawed for the following reasons.

Although there is precedent which holds that the Patent and Trademark Office is not required in the course of prosecution to interpret the claims in the same manner as a court would interpret them in an infringement suit, the claims nevertheless must be given a **reasonable** interpretation that is consistent with the interpretation that those skilled in the art would reach. Although the words of a claim must be given their “plain meaning” unless they are defined in the Specification, the plain meaning nevertheless must be discerned in the particular context **as understood by one of ordinary skill in the art**. Courts have recognized this and have therefore clarified that “plain meaning” refers to the ordinary and customary meaning given to the term by those of ordinary skill in the art. In this case, given Applicants’ discussion in paragraph [0002], in the Background section, the art cited to the Examiner, and the Google™ search results provided here, a von-Neumann architecture as understood by those of ordinary skill in the art is different than a data driven or data flow architecture. Applicants understand that broad interpretation by the Examiner reduces the possibility that a claim, once issued, will be interpreted more broadly than is justified. However, in this case, Applicants should not be required to unreasonably amend the claims, as the term *data driven processing* has no chance of being interpreted more broadly than is justified.

Firstly, as a practical matter, it is noted that had the Applicants intended to claim broader coverage, it would have been a very simple matter to simply omit the words *data driven*. That is not the case here as both the claims and the rest of the Applicants’ Specification only refer to *data driven processing*. This is, of course, in contrast to von-Neumann-type processors as clearly stated in Applicants’ Specification. Indeed, the second paragraph of Applicants’ Specification describes certain aspects of a data driven architecture in contrast with the von-Neumann architecture. Moreover, Applicants have not only cited (via information disclosure statement) an article which describes a

non-von-Neumann data driven processor ("Sharp Develops the World's First Non-von-Neumann Data-Driven Parallel-Processing Media Processor", March 31, 1997, see page 5), but also further demonstrate here the understanding of one of ordinary skill in the art by submitting the results of a Google™ search for *data driven processor*. The enclosed search results show the top ten hits, every one of which refers to a *data driven processor*. Also enclosed are copies of articles corresponding to the first four hits. Each article begins its discussion with a brief reflection on how a data driven (or data flow) architecture is different from a von-Neumann architecture. Accordingly, this evidence firmly supports the understanding of one of ordinary skill in the art that the von-Neumann-type processing of Gove does not teach or suggest a *data driven* architecture, as the two are understandably different and are easily distinguished by those of ordinary skill in the art.


Accordingly, it is submitted that the claims are distinguishable with respect to Gove at least for the above reasons, without requiring amendment. Reconsideration and withdrawal of the art rejection in view of Gove is therefore requested.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: July 18, 2006

By 
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Margaux Rodriguez July 18, 2006